

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIES

PART 535
BACKGROUND CHECKS AND MERCURY COMPLIANCE

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AUTHORITY: Implementing and authorized by Sections 8-501.5 and 8-505.5 of the Public Utilities Act [220 ILCS 5/8-501.5, 8-505.5].

SOURCE: Former Part 535 repealed at 19 Ill. Reg. 6213, effective April 20, 1995; new Part adopted at ___ Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 535.10 Definitions

“Act” means the Public Utilities Act [220 ILCS 5].

“Commission” means the Illinois Commerce Commission.

“Confirmed reading” means a mercury vapor sample test result that was obtained in the absence of any interference or one that was obtained by an alternative mercury vapor analyzer in those cases where an interference exists.

“Independent contractor” means any sole proprietor, partnership, or corporation.

“Pertinent safety law” means any applicable local, State and federal safety law.

“Pertinent environmental law” means any applicable local, State, or federal environmental law.

“Public utility” means the same as that term is defined in Section 3-105 of the Act [220 ILCS 5/3-105].

“Violation” means any final order issued by any federal or State court or agency of competent jurisdiction or written stipulation, admission, agreed settlement, or consent order containing an admission of liability for the violation, entered into within the last five years prior to the hiring, promoting, or transfer date as set forth in Section 535.100.

“Work” means any maintenance, replacement, or inspection of public utility equipment by a public utility or by a contractor for a public utility. “Work” shall not include meter readings and inspections of public utility equipment that only involve observations or taking readings.

Section 535.20 Application

This Part establishes the procedures for completing certificates that a public utility shall require from employees or contractors before any work is performed by these employees or contractors on a facility used for the distribution of natural gas and the procedures for the conducting of mercury vapor tests and the use of mercury vapor testing equipment by the public utility, its agents, or its contractors.

SUBPART B: BACKGROUND CHECKS

Section 535.100 Background Checks

- a) *Before hiring, promoting, or transferring an employee to perform work on facilities used for the distribution of natural gas to customers, a public utility shall require each employee or potential employee to complete a certificate listing violations of pertinent safety or environmental laws by the employee or potential employee. Exempt from this requirement are current employees of public utilities who were in positions with the public utilities that involved work on facilities used for the distribution of natural gas to customers of these public utilities on the effective date of this Part. Also exempt are employees who are being transferred or promoted from a position requiring a certificate to another position requiring a certificate. [220 ILCS 5/8-501.5]*
- b) *Before hiring an independent contractor to perform work involving facilities used for the distribution of natural gas to customers, a public utility shall require an owner or officer of the independent contractor to provide certificates listing*

violations of pertinent safety or environmental laws by the independent contractor. [220 ILCS 5/8-501.5]

- c) A certificate of violations of pertinent safety and environmental laws violations completed by a potential public utility employee or current public utility employees who are receive a promotion or transfer to a position described in subsection (a) shall contain the following information:
 - 1) The name of applicant or employee;
 - 2) The applicant or employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine assessed because of the violation;
 - 3) A verified statement that the applicant or employee is providing truthful information;
 - 4) Notice to the applicant or employee that willful omissions of information from this certificate are grounds for employment termination; and
 - 5) The applicant or employee's dated signature.
- d) A certificate of violations of pertinent safety and environmental laws completed by an owner or officer of the independent contractor shall contain the following information:
 - 1) Identification of the specific public utility contract being sought by the independent contractor;
 - 2) The name and address of the independent contractor;
 - 3) The name and position held in the independent contractor by the person completing the certificate;
 - 4) The independent contractor's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
 - 5) A verified statement that the representative of the independent contractor is providing truthful information;
 - 6) Notice to the independent contractor that willful omissions of information from this certificate are grounds for contract termination; and
 - 7) The dated signature of the independent contractor owner or officer completing the certificate.

- e) A public utility shall retain completed certificates of violations of pertinent safety and environmental laws and shall make these records available for inspection by the Commission.
 - 1) A public utility shall keep a certificate completed by an independent contractor hired by the public utility for five years after the creation of the certificate;
 - 2) A public utility shall keep certificates completed by its own employees for five years after employment termination.
- f) Information provided in the certificates referred in subsections (c) and (d) shall be considered by these public utilities in making employment decisions regarding those individuals or entities furnishing these certificates to these public utilities.
- g) Independent contractors hired by the public utility shall provide new certificates annually.

SUBPART C: MERCURY COMPLIANCE

Section 535.200 Work Performed on Regulators and Manometers

- a) Prior to performing work at a customer location on a mercury-containing regulator or manometer used in providing natural gas service, a public utility shall test the air for mercury vapor in at least two locations: one location one foot above or away from the regulator or manometer and another location within three to five feet above the floor for in-door meters, or three to five feet above ground level for out-door meters, immediately adjacent to the regulator or manometer.
- b) After performing the work on a mercury-containing regulator or manometer used to provide natural gas service, a public utility shall test the air for mercury vapor at the same locations used for air sampling prior to performing the work on the regulator or manometer.
- c) A public utility shall consider a confirmed reading at, or in excess, of the following levels as a positive indication of mercury.
 - 1) 0.003 milligrams (3 micrograms) per cubic meter of air for mercury vapor air sample tests conducted inside of a residential customer location.
 - 2) 0.010 milligrams (10 micrograms) per cubic meter of air for mercury vapor air sample tests conducted at non-residential locations and outside of a residential customer location.

- d) When testing for mercury vapor, a public utility shall use mercury vapor testing equipment capable of detecting the presence of mercury at the levels required by subsection (c) above.
- e) A public utility shall use mercury vapor testing equipment in accordance with the guidelines set forth by the manufacturer of the equipment.
- f) A public utility shall not perform any mercury vapor air sample tests under conditions that would counter the manufacturer's recommendations for use of the mercury vapor test equipment except for the following reasons:
 - 1) A public utility may perform work on mercury contained regulators or manometers located outdoors without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment, or
 - 2) A public utility may perform emergency work on mercury-containing regulators or manometers without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment.

Section 535.210 Reporting Mercury Tests

- a) A public utility performing a mercury vapor air sample test required by Section 535.200 shall record the following information:
 - 1) The name of the public utility providing natural gas service to the property;
 - 2) The address where the mercury-containing regulator or manometer is or was located;
 - 3) An indication of whether the regulator or manometer was located inside or outside of customer's location;
 - 4) An indication of whether a regulator or manometer is at the specified location;
 - 5) An indication of whether the regulator or manometer remained at the specified location or was removed;
 - 6) The name of person conducting the test;

- 7) The date and time of the test;
 - 8) The level of mercury vapor found at each test location;
 - 9) A general description of each air sample test location;
 - 10) The name and model number of the device used to conduct the test;
 - 11) The date of original work and explanation of testing delay if testing was postponed due to circumstances covered in Section 535.200(e)(2); and
 - 12) The dated signature of person completing the mercury vapor test report.
- b) After performing mercury vapor air sample tests required by Section 535.200, a public utility shall, if requested by the occupant or owner of the property, provide a copy of the mercury vapor air sample test results to the occupant or owner of the property where the public utility performed the tests. If requested, the public utility shall mail a copy of the mercury vapor air sample test results in a first class envelope addressed to the occupant or owner within ten working days after the date of the request.
- c) A public utility shall retain the information required in subsection (a) for five years. A public utility shall make these records available for inspection by the Commission staff upon request.

Section 535.220 Mercury Reports to the Commission

- a) No later than April 1 of each year, a public utility offering natural gas service shall file an annual mercury compliance report with the Chief Clerk of the Commission. The report shall contain the following information for the previous calendar year:
- 1) The number of locations that required a mercury vapor air sample test; and
 - 2) An identification of the number of locations that contained confirmed readings in excess of the allowed levels and the concentration of mercury vapor detected by the public utility at each location as set forth in Section 535.200(c).
- b) If a public utility reports no activity regarding the removal of mercury-containing regulators or manometers used in providing natural gas service for a period of three consecutive years and certifies by verified statement with the Chief Clerk of the Commission that there are no known locations with mercury-containing regulators or manometers used in providing natural gas service, then the utility is exempted from the reporting requirement.

- c) A public utility's exemption from the reporting requirements in this Section ends in the event that:
 - 1) The public utility discovers a mercury-containing regulator or manometer used in providing natural gas service within its system; or
 - 2) The public utility merges with another Illinois natural gas utility or acquires Illinois service territory from another public utility that has not met the requirements of subsection (b).

Section 535.230 Mercury Vapor Air Sample Test Result in Excess of Allowed Levels

- a) For each confirmed mercury vapor air sample test result in excess of the levels set forth in Section 535.200(c), a public utility shall immediately notify all State and federal authorities with jurisdiction of its findings and implement the appropriate mercury contamination clean-up procedure with those authorities, to the extent such notification and clean-up is required under pertinent environmental laws or pertinent safety laws and to the extent that the utility has not previously developed protocols for notification and cleanup with State or federal authorities. Notifying all State and federal authorities with jurisdiction is not required should a public utility's existing protocol with those authorities not require it.
- b) If a public utility is required, as discussed under subsection (a), to conduct a clean-up, the public utility shall maintain a file of all correspondence regarding each location where it obtained a confirmed mercury vapor air sample test result in excess of the limits set forth in Section 535.200(c) for a period of five years after it receives confirmation from the appropriate State or federal authorities that its mercury clean-up activities are completed and no further work in this regard is needed.

Section 535.240 Certification of Equipment

A public utility, independent contractor, or their agents shall follow the manufacturer's testing, maintenance, and certification recommendations for all mercury vapor testing equipment used to test for the presence of mercury vapor and shall keep the records of such testing, maintenance and certifications for five years after its last mercury vapor test required by Section 535.200.